

## **Exhibit A**

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November 20, 2015

BY ECF & HAND DELIVERY

Honorable Kevin N. Fox  
United States Magistrate Judge  
Thurgood Marshall United States Courthouse

**Re:** *In re: Term Commodities Cotton Futures Litig.*, 12-cv-5126 (ALC) (KNF) (S.D.N.Y.)

Dear Magistrate Judge Fox:

Plaintiffs respectfully request leave to reply to Defendants' opposition (ECF No. 223) to Plaintiffs' motion to compel Defendants to produce [REDACTED] for Fed.R.Civ.P 30(b)(1) depositions. ECF No. 198.

This image consists of a solid black background. A single, continuous white horizontal line runs across the center of the frame. This line is not perfectly straight; it features several sharp, angular turns and irregular segments, giving it a jagged, stepped appearance. The white area is bounded by a thick, black border that follows the same irregular path as the white line itself. The overall effect is reminiscent of a high-contrast scan of a physical object or a specific type of digital noise.

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This image is a high-contrast, binary-style graphic. It features a dark, almost black, background with several distinct, bright white horizontal streaks. These streaks vary in length and position, creating a sense of motion or distortion. On the far left, there are three short, thick white lines of decreasing height from top to bottom. In the center, there is a long, thin white horizontal line. To its right, there is a much longer, thicker white horizontal line. On the far right edge, there is a vertical column of white pixels, some of which are taller than others, forming a jagged, stepped pattern. The overall effect is reminiscent of a corrupted digital signal or a specific type of abstract data visualization.

<sup>1</sup> See *Boss Mfg. Co. v. Hugo Boss AG*, No. 97 Civ. 8495(SHS)(MHD), 1999 WL 20828, at \*4 (S.D.N.Y.) (“the burden is modest”); *Louis Vuitton Malletier v. Dooney & Bourke, Inc.*, (“LVM”), No. 04 CIV. 5316 RMB MHD, 2006 WL 3476735, at \*14 (S.D.N.Y. Nov. 30, 2006) (Dolinger, MJ) (“all doubts are to be resolved in favor of the examining party”).

<sup>2</sup> See *Calderon v. Experian Info. Sols., Inc.*, 290 F.R.D. 508, 518 (D. Idaho 2013) (“where the question is whether the deposition should occur, as opposed to whether the corporation may ultimately be bound by the employee’s statements, the third factor, i.e. the witness’s likely ‘identification with the interests of the employer’—is said to be the ‘paramount test.’ ”, citing *E.I. DuPont de Nemours & Co. v. Kolon Indus.*, 268 F.R.D. 45, 49 (2010); *In re Honda American Motor Co., Inc. Dealership Litigation*, 168 F.R.D. 535, 541 (D.Md.1996); *Boston Diagnostics Development Corp., Inc. v. Kollsman Mfg. Co.*, 123 F.R.D. 415, 416 (D.Mass.1988); *Independent Productions Corp. v. Loew’s Inc.*, 24 F.R.D. 19, 25 (S.D.N.Y.1959); FPP § 2103.).

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c.

<sup>3</sup> See, *Schindler Elevator Corp. v. Otis Elevator Co.*, No. 06 CIV.5377CMTHK, 2007 WL 1771509, at \*6 (S.D.N.Y. June 18, 2007), (in finding that this factor supported a finding of managing agent status, the court stated that the individual “appears to have been ‘in charge of the particular matter’ (emphasis supplied) even though he was responsible to higher authority to some extent” quoting *Boston Diagnostics Dev. Corp., Inc. v. Kollsman Mfg. Co.*, 123 F.R.D. 415, 417 (D.Mass.1988).

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*see also In re Term Commodities Cotton Futures Litig.*, No. 12-cv-5126, 2013 WL 9815198 at \*\*12, 16(S.D.N.Y. Dec. 20, 2013).

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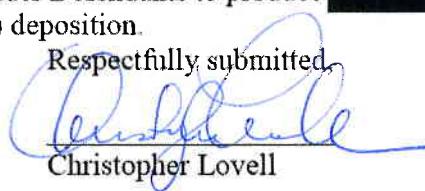
*ee Lockheed Martin Corp., Plaintiff, v. The Boeing Co.*, No. 603-CV-796, 2003 WL 22962782, at \*3 (M.D. Fla. Oct. 21, 2003) (Court excludes cross-subpoenas from notices counted for purposes of the number of depositions).

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[REDACTED]

**Conclusion.** This Court should order Defendants to produce [REDACTED]  
[REDACTED] for Rule 30(b)(1) deposition.

Respectfully submitted,



Christopher Lovell

cc: Counsel of Record (by ECF)

## **Exhibit A**

**Exhibit Filed Under Seal**

## **Exhibit B**

**Exhibit Filed Under Seal**